

President Maduro and his allies and the political opposition, and they have not been able to accomplish it.

It is time to move more vigorously forward with the types of sanctions and other efforts envisioned in the other legislation I and Senator RUBIO have offered, and if we do that tomorrow we will send a message to the hemisphere and to the people of Venezuela that, in fact, they have a real opportunity to have their voices heard, and we will stand on the right side of human rights and democracy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Madam President, I ask to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

OREGON WILDFIRES

Mr. MERKLEY. Madam President, at this moment in my home State of Oregon 500,000 acres are ablaze. Sometimes it is hard to get your hands around numbers, particularly large numbers, so I will give a sense of this. If you were to add up all of the fires in Oregon and if they were in one place, it would cover an area roughly 20 miles by 40 miles. That is an enormous section of a State to be aflame.

Because there are so many devastating fires at once, crews are coming from all over to help with all kinds of aircraft and all kinds of hotshot crews. They are doing all they can, but it is not just Oregon that has fires; other States have fires too. There are over 250,000 acres ablaze in Washington State to the north in a single fire. I believe it is the largest single fire in Washington State's history.

As a result of fires in Oregon and fires in Washington and other fires, we are draining our fire funds at an expansive rate, and thus we have a big problem: We are running out of funds to pay for fighting these fires.

Tonight we had before our Chamber an emergency supplemental bill to provide 615 million more dollars to fight fires this season across the United States of America. A procedural tactic was used to kill this bill. Quite frankly, that is enormously shortsighted.

Here is what has been happening in the past: The fires are being fought, and then the funds run out, and then the Forest Service has to pull the funds from every other department—from departments involving forest health, from departments providing efforts to prevent fires and create conditions in which they will not happen in the future. We are continuing a vicious cycle of robbing fire prevention and forest management funds to fight emergency fires, and that cycle will go forward now that we have failed to pass this emergency supplemental up front.

I will give a little flavor of what I am talking about across our State. We have the Ochoco complex east of Post, 10,000 acres aflame. The Logging Unit

complex northwest of Warm Springs, 6,600 acres; the Kitten Canyon complex west of Vale, 23,000 acres; the Bridge 99 complex north of Sisters, 5,700 acres; the Hurricane Creek fire southwest of Joseph, 900 acres; we have the Buzzard complex in southeast Oregon, nearly 400,000 acres; the Reeves Creek complex southwest of Grants Pass, 200 acres; the China Cap fire east of La Grande, 200 acres—by the way, zero percent contained—the Black Rock fire east of Antelope, 36,000 acres; the Snipion fire north of Fossil, 12,000 acres; and the Bingham complex east of Marion Forks, 450 acres. We also have two more fires that have just arisen, and those are the Haystack complex, 1,700 acres, and the Salt Creek fire northwest of Medford 100 acres.

Here is the thing. We have the conditions for more fires to come—more lightning, a forecast of more hot weather, and we have incredibly dry timber on the floor of the forest.

This situation in which these fires are going to be fought—by pulling funds from every other part of the Forest Service—is unacceptable. It is not good stewardship of the complex operations that occur within the Interior Department and within the Forest Service.

Think about the need to plan the timber harvest to sustain the lumber industry. That is a complex process. It involves a lot of folks who have to go out and evaluate the forests and work it out so those timber sales can occur on schedule. All of that gets stopped when you have to rob the fund in order to pay for fighting these fires.

Let's think about the millions of acres of second-growth forest that are overgrown. It is very good for disease, it is very good for fires, and it needs to be thinned, but how do you plan for the thinning if you rob the funds to do so? The list goes on and on and on.

I am deeply disappointed and frustrated with what happened tonight, and I urge my colleagues to exercise a little thoughtfulness, a little wisdom, and a little stewardship regarding our national forest. The next time this comes up, let's pass it unanimously so we can provide the funds that are needed to fight this national emergency.

I thank the Presiding Officer.

JUSTICE FOR ALL REAUTHORIZATION ACT

Mr. LEAHY. Madam President, last week I came to the floor to talk about the FBI's extensive use of flawed evidence in thousands of cases. It is tragic just days later there is yet another scandal involving bad science used to send people to jail and some to death row.

According to an internal investigation by the FBI and the Department of Justice, nearly 2,600 convictions and 45 death row cases from the 1980s and 1990s may have involved flawed forensic evidence. Specifically, these cases involved microscopic hair matches, a

form of forensic science that has been discredited. The scope of this scandal, which is the focus of a front-page article in the Washington Post yesterday, goes well beyond the problems we have previously seen when it comes to forensic evidence. Even more troubling than the statistics outlined in the Post's story is that the FBI, after recognizing these egregious mistakes, stopped their full review after examining just a small fraction of these cases. The Department of Justice has rightly ordered the FBI to resume its internal review, but the FBI's conduct is inexcusable.

Once again, we are reminded that our criminal justice system is not infallible and that we are all less safe when the system fails. FBI investigators should have redoubled their efforts to uncover these mistakes and rushed to tell those affected defendants. Instead it appears they dragged their feet and stopped their review. I intend to get to the bottom of this. I have a lot of questions for the Bureau, and I will not stop until they are answered.

When we have evidence that could prove that someone is innocent, we must get it processed immediately. It is not only the right thing to do for that person wrongfully accused but it is the right thing to do to keep our communities safe. That is why I again urge the Senate to take up and pass the Justice for All Reauthorization Act, a bill I introduced with Senator CORNYN last year. This bipartisan legislation includes the Kirk Bloodsworth Post Conviction DNA Testing Grant Program, named for the first person exonerated from a death row crime through the use of DNA evidence. This program seeks to correct these most grievous mistakes. Senate minority leader MITCH MCCONNELL is a cosponsor of the bill. All Senate Democrats support passage of this legislation. There is no reason why the Senate should not take up and pass this important bill without further delay.

I also will continue my efforts to pass commonsense forensic science reform legislation. The Criminal Justice and Forensic Science Reform Act that I introduced earlier this year with Senator CORNYN would improve the use of forensic science in criminal cases and ensure that labs throughout the Nation are operating according to the highest scientific standards.

I thank the many law enforcement, victim services, and criminal justice organizations that continue to highlight the need for reform to ensure the proper application of forensic evidence in criminal cases, and who have urged the Senate to pass the Justice for All Reauthorization Act.

I ask that the Washington Post article by Spencer Hsu be printed in the RECORD, and I urge all Senators to join me in getting to the serious business of providing justice to the wrongfully convicted and passing the Justice for All Reauthorization Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 30, 2014]
 REVIEW FINDS TWO DECADES OF FORENSIC
 ERRORS BY FBI

(By Spencer S. Hsu)

Nearly every criminal case reviewed by the FBI and the Justice Department as part of a massive investigation started in 2012 of problems at the FBI lab has included flawed forensic testimony from the agency, government officials said.

The findings troubled the bureau, and it stopped the review of convictions last August. Case reviews resumed this month at the order of the Justice Department, the officials said.

U.S. officials began the inquiry after The Washington Post reported two years ago that flawed forensic evidence involving microscopic hair matches might have led to the convictions of hundreds of potentially innocent people. Most of those defendants never were told of the problems in their cases.

The inquiry includes 2,600 convictions and 45 death-row cases from the 1980s and 1990s in which the FBI's hair and fiber unit reported a match to a crime-scene sample before DNA testing of hair became common. The FBI had reviewed about 160 cases before it stopped, officials said.

The investigation resumed after the Justice Department's inspector general excoriated the department and the FBI for unacceptable delays and inadequate investigation in a separate inquiry from the mid-1990s. The inspector general found in that probe that three defendants were executed and a fourth died on death row in the five years it took officials to reexamine 60 death-row convictions that were potentially tainted by agent misconduct, mostly involving the same FBI hair and fiber analysis unit now under scrutiny. "I don't know whether history is repeating itself, but clearly the [latest] report doesn't give anyone a sense of confidence that the work of the examiners whose conduct was first publicly questioned in 1997 was reviewed as diligently and promptly as it needed to be," said Michael R. Bromwich, who was inspector general from 1994 to 1999 and is now a partner at the Goodwin Procter law firm.

Bromwich would not discuss any aspect of the current review because he is a pro bono adviser to the Innocence Project, which along with the National Association of Criminal Defense Lawyers is assisting the government effort under an agreement not to talk about the review. Still, he added, "Now we are left 18 years [later] with a very unhappy, unsatisfying and disquieting situation, which is far harder to remedy than if the problems had been addressed promptly."

Deputy Attorney General James M. Cole this month ordered that reviews resume under the original terms, officials said.

According to the FBI, the delay resulted, in part, "from a vigorous debate that occurred within the FBI and DOJ about the appropriate scientific standards we should apply when reviewing FBI lab examiner testimony—many years after the fact."

"Working closely with DOJ, we have resolved those issues and are moving forward with the transcript review for the remaining cases," the FBI said.

Emily Pierce, a Justice Department spokeswoman, said: "The Department of Justice never signed off on the FBI's decision to change the way they reviewed the hair analysis. We are pleased that the review has resumed and that notification letters will be going out in the next few weeks."

During the review's 11-month hiatus, Florida's Supreme Court denied an appeal by a death-row inmate who challenged his 1988 conviction based on an FBI hair match. James Aren Duckett's results were caught

up in the delay, and his legal options are now more limited.

Revelations that the government's largest post-conviction review of forensic evidence has found widespread problems counter earlier FBI claims that a single rogue examiner was at fault. Instead, they feed a growing debate over how the U.S. justice system addresses systematic weaknesses in past forensic testimony and methods.

"I see this as a tip-of-the-iceberg problem," said Erin Murphy, a New York University law professor and expert on modern scientific evidence.

"It's not as though this is one bad apple or even that this is one bad-apple discipline," she said. "There is a long list of disciplines that have exhibited problems, where if you opened up cases you'd see the same kinds of overstated claims and unfounded statements."

Worries about the limitations and presentation of scientific evidence are "coming out of the dark shadows of the legal system," said David H. Kaye, a law professor at Penn State who helped lead a Justice Department-funded study of fingerprint analysis and testimony in 2012. "The question is: What can you do about it?"

Courts and law enforcement authorities have been reluctant to allow defendants to retroactively challenge old evidence using newer, more accurate scientific methods.

The Justice Department and FBI inquiry, which examines convictions before 2000, could provide a way for defendants to make that challenge. Because the government is dropping procedural objections to appeals and offering new DNA testing in flawed cases if sought by a judge or prosecutor, results could provide a measure of the frequency of wrongful convictions.

Responding to the FBI review, the accreditation arm of the American Society of Crime Lab Directors last year recommended that labs determine whether they needed to conduct similar reviews, and New York, North Carolina and Texas are doing so.

According to a Justice Department spokesman, officials last August completed reviews and notified a first wave of defendants in 23 cases, including 14 death-penalty cases, that FBI examiners "exceeded the limits of science" when they linked hair to crime-scene evidence.

However, concerned that errors were found in the "vast majority" of cases, the FBI restarted the review, grinding the process to a halt, said a government official who was briefed on the process. The Justice Department objected in January, but a standoff went unresolved until this month.

After more than two years, the review will have addressed about 10 percent of the 2,600 questioned convictions and perhaps two-thirds of questioned death-row cases.

The department is notifying defendants about errors in two more death-penalty cases and in 134 non-capital cases over the next month, and will complete evaluations of 98 other cases by early October, including 14 more death-penalty cases.

No crime lab performed more hair examinations for federal and state agencies than the 10-member FBI unit, which testified in cases nationwide involving murder, rape and other violent felonies.

Although FBI policy has stated since at least the 1970s that a hair association cannot be used as positive identification, like fingerprints, agents regularly testified to the near-certainty of matches.

In reality, there is no accepted research on how often hair from different people may appear the same. The FBI now uses visual hair comparison to rule out someone as a possible source of hair or as a screening step before more accurate DNA testing.

This month, the inspector general reported that inattention and foot-dragging by the Justice Department and the FBI led them to ignore warnings 15 years ago that scientifically unsupported and misleading testimony could have come from more than a single hair examiner among agents discredited in a 1997 inspector general's report on misconduct at the FBI lab.

The report said that as of 1999, Justice Department officials had enough information to review all hair unit cases—not just those of former agent Michael P. Malone, who was identified as the agent making the most frequent exaggerated testimony.

By 2002, Maureen Killion, then director of enforcement operations, had alerted senior criminal division officials to "the specter that the other examiners in the unit" were as sloppy as Malone, the inspector general said.

"This issue has been raised with the FBI but not resolved to date," Killion wrote to then-Assistant Attorney General Michael Chertoff and his principal deputy, John C. Keeney, in July 2002, the report said.

Twelve years later, the Florida case shows the continued inadequacy of officials' response.

Duckett, then a rookie police officer in Mascotte, Fla., was convicted of raping and strangling Teresa McAbee, 11, and dumping her into a lake in 1987.

After a state police examiner was unable to match pubic hair found in the victim's underwear, prosecutors went to Malone, who testified at trial that there was a "high degree of probability" that the hair came from Duckett.

Such testimony is scientifically invalid, according to the parameters of the current FBI review, because it claims to associate a hair with a single person "to the exclusion of all others."

The Florida court denied Duckett's request for a new hearing on Malone's hair match. The court noted that there was other evidence of Duckett's guilt and that the FBI had not entirely abandoned visual hair comparison.

Duckett attorney Mary Elizabeth Wells confirmed this week that Duckett's case was under the FBI's review. Both Wells and Whitney Ray, a spokeswoman for Florida Attorney General Pam Bondi, said Thursday that parties had not been notified of results, but they otherwise declined to comment.

Duckett's case was eligible for the 1996 review as a Malone case but was omitted, even though the inspector general stated that "it was important to the integrity of the justice system" that all of Malone's death-penalty cases be immediately reviewed.

The Justice Department declined to comment on the omission.

RECOGNIZING HOARD'S DAIRYMAN

Mr. LEAHY. Madam President, I would like to applaud Hoard's Dairyman for shining a light on an important and sometimes overlooked problem in rural America.

The article in their July 2014 issue, "When Life Turned Ugly," written by Andrea Stoltzfus, focused on the unique challenges that rural victims of domestic violence face in overcoming their abusers. They are often geographically isolated and unaware of the resources available to them or they lack the ability to reach a crisis center due to a lack of public transportation. There also may not be a local shelter to help them or they may not have the